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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/790,323	02/27/2004	Patrycjusz Kosun	LAC201T3	8824
7591 HORST KASPER 13 FOREST DRIVE WARREN, NJ 07059				
			EXAMINER	
			LIANG, REGINA	
			ART UNIT	PAPER NUMBER
			2629	
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			03/24/2009 PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/790,323

**Applicant(s)**

KOSUN, PATRYCJUSZ

**Examiner**

Regina Liang

**Art Unit**

2629

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3, 5-13, 15-18 and 23-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7, 11 and 23 is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 6, 8-10, 12, 13, 15-17 and 24-26 is/are rejected.
- 7) ☒ Claim(s) 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

#### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(c), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(c) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/5/09 has been entered. Claims 1-3, 5-13, 15-18, 23-26 are pending in the application.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

#### ***Claim Objections***

3. Claim 2 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 2 fails to further limit the subject matter of claim 1.

#### ***Claim Rejections - 35 USC § 102***

4. Claims 1, 2, 8-9, 12, 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Arita et al (5,504,502).

As to claims 1, 2, Figs. 1, 16 of Arita discloses a computer input pointing device comprising a casing(13, 19), an upper movable steering element (10, 11), a steering element's

movement detector (14, 14', 18), the steering element (10, 11) is connected to the casing by a connection (see Fig. 1, all elements between the steering element 10 and the housing 13), the center of the spherical surface (Fig. 3A, 10a) defined by the movement of the steering element in relation to the casing is situated above the steering element as claimed (also see Fig. 16 for example, the center of the spherical surface is situated above the steering element 11).

As to claims 8 and 9, Fig. 1 of Arita teaches the steering element (10) rests freely on the casing (13), and the steering element is able to relocate only over the spherical surface defined by the movement of the steering element in relation to the connection.

As to claims 12, 13, Fig. 3A of Arita shows the steering element is provided with a dome part (ergonomic shape) for user's hand.

### ***Claim Rejections - 35 USC § 103***

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Arita.

As to claim 3, Fig. 16 of Arita shows the connection of convex side (under side) of the steering element to the casing (13) is attached a frame having a surface. Arita differs from claim in that the surface is not of spherical shape. However, it would have been obvious to modify the frame to be a spherical shape since such a modification would have involved a mere change in the shape of a component. A change in shape is generally recognized as being within the level of ordinary skill in the art. *In re Dailey*, 149 USPQ 47 (CCPA 1976).

6. Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arita et al in view of Leung (6,388,655B1).

Arita et al is discussed above. Leung is cited to show that the concept of utilizing ball bearing (236, Figs 19, 22) for facilitating movement of a moveable steering element(182) of an input pointing device(180) is old. Thus, it would have been obvious to one of ordinary skill in the art to modify the system of Arita et al with the noted teaching of Leung such that to provide ball bearings between the moveable steering element(10) and the bearing(13) because it would facilitate the movement between the two elements almost without any friction and secondly because both references are related to moveable cursor input device.

7. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Arita et al in view of Miyoshi (6,667,733).

Arita et al is discussed above. Artia does not disclose the detail of the connection as claimed. Miyoshi is cited to show that the concept of utilizing a moveable steering element (30, Fig. 4) having an upper part (31), a protective lower part (70) and a connecting part (32) for connecting the upper and the lower parts together is old. Thus, it would have been obvious to one of ordinary skill in the art to modify the system of Arita et al with the above noted teachings of Miyoshi such that the moveable steering element (slider 10) of Arita includes an upper and lower parts connected together so that to prevent the slider from falling through the hole (12a, 13a) because both references are related to mechanical structure of a slider input device.

Arita as modified by Miyoshi differ from the claim in that the lower side of the upper part not having a convex surface and the upper side of the protective lower part not having a concave surface. However, it would have been obvious to modify the steering element of Arita as modified by Miyoshi to be shape as claimed since such a modification would have involved a

mere change in the shape of a component. A change in shape is generally recognized as being within the level of ordinary skill in the art. *In re Dailey*, 149 USPQ 47 (CCPA 1976).

8. Claims 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arita et al in view of Low et al (2004/0046741A1).

As to claims 15, 16, Arita et al is discussed above. Arita does not disclose the detail of the steering element movement detector. Low et al is cited to show that the concept of utilizing a light emitter and an optical sensor or a micro-camera as a movement detector for a moveable peripheral input device is old (see paragraphs [0024-0025]). Therefor, it would have been obvious to one of ordinary skill in the art modify the system of Arita et al with the above noted teachings of Low et al such that to provide an optical detection system for detecting movement of the slider(10) as opposed to the magnetic detection system(14, 14', 18) because both are alternative equivalent to each other and further because both references are related to movement detection of a moveable peripheral input device.

As to claim 17, Fig. 3 of Arita shows the steering element has a graphic perforations.

9. Claims 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kobachi et al (US 6,326,948).

As to claim 24, Fig. 28 of Kobachi discloses a computer input pointing device comprising: a casing (4) having a central opening; a steering element (1) having an outer spherical cap and an inner spherical cap, and a centered disposed stub element solidly connecting the inner side of the outer spherical cap and the outer side of the inner spherical cap; a movement

detector (sensors S) for detecting movement of the steering element (1); and a transmission system connected to the movement detector for transferring movement information to a computer. Kobachi does not disclose the outside surface of the casing is formed concave, an inside surface of the outer spherical cap is formed convex, and an outside surface of the inner spherical cap is formed concave. However, it would have been obvious to modify the pointing device of Kobachi to be shape as claimed since such a modification would have involved a mere change in the shape of a component. A change in shape is generally recognized as being within the level of ordinary skill in the art. *In re Dailey*, 149 USPQ 47 (CCPA 1976).

As to claims 25 and 26, see Fig. 28 of Kobachi.

#### ***Allowable Subject Matter***

10. Claims 7, 11 and 23 are allowed.
11. Claim 18 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

12. Applicant's arguments filed 2/5/09 have been fully considered but they are not persuasive.

Applicant's argument regarding Arita on pages 10-11 are not persuasive. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., claim 1 requires that the center of spherical surface (4) is on an opposite side of the steering element (3) as is the casing (2). Thus

the casing (2) is disposed on the convex side of the steering element (3)) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Figs. 1-3 of Arita show the center of the spherical surface (10a in Fig. 3A for example) defined by the movement of the steering element (10) is situated above the steering element, which reads on claim 1.

Applicant's remarks regarding claim 3 are not persuasive, see the rejection above.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Regina Liang whose telephone number is (571) 272-7693. The examiner can normally be reached on Monday-Friday from 8AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Hjerpe, can be reached on (571) 272-7691. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Regina Liang/  
Primary Examiner, Art Unit 2629